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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 UNITED STATES OF AMERICA,

Case No. 2:17-CR-74 JCM (NJK)

8 Plaintiff(s),

ORDER

9 v.

10 DERECK VINCENT FESOLAI,

11 Defendant(s).

12  
13 Presently before the court is the matter of *United States of America v. Fesolai*, case no.  
14 2:17-cr-00074-JCM-NJK-1. Petitioner Dereck Vincent Fesolai (“petitioner”) filed a motion to  
15 vacate, set aside, or correct sentence under 28 U.S.C. § 2255. (ECF No. 51). The court has  
16 examined the petition and finds that further briefing may be appropriate, particularly in light of  
17 the Supreme Court’s decision in *Rehaif v. United States*, 139 S. Ct. 2191 (2019).

18 However, petitioner indicates that “a brief in support of [the instant] motion is attached.”  
19 (ECF No. 51). No such brief was attached. *See id.* Without that brief, nothing but threadbare  
20 allegations of ineffective assistance of counsel and a cursory argument under *Rehaif* are before  
21 the court. Consequently, the court will deny petitioner’s motion without prejudice. Petitioner  
22 may refile his petition with a brief attached.

23 Accordingly,

24 IT IS HEREBY ORDERED that petitioner’s motion to vacate, set aside, or correct  
25 sentence under 28 U.S.C. § 2255 (ECF No. 51) be, and the same is, DISMISSED without  
26 prejudice.


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IT IS SO ORDERED.

The clerk is instructed to file this order in the instant matter and in the related civil case,  
no. 2:19-cv-01931-JCM.

DATED November 22, 2019.

  
UNITED STATES DISTRICT JUDGE